

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GREGORY BARTUNEK,

Defendant.

8:17CR28

ORDER

This matter is before the Court on defendant Gregory Bartunek's ("Bartunek") Motion to Continue and/or Dismiss with Prejudice (Filing No. 265). The magistrate judge¹ granted Bartunek's request for a continuance in part and deferred his request for prejudicial dismissal to this Court (Filing No. 269). *See* 28 U.S.C. § 636(b)(1)(A).

In his Motion, Bartunek asks the Court to "dismiss this case with prejudice for Gross Misconduct of the government violating the defendants [sic] right to be secure, due process and right to a speedy trial, and reasonable bail, and numerous other violations of the defendant's rights as guaranteed by the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the United States Constitution, and the Nebraska Constitution § 1-3, § 1-7, § 1-9, § 1-11, and § 1-12." According to Bartunek, the government is "find[ing] ways to circumvent the law so that they can keep [him] illegally incarcerated pending trial for an extended period of time, and punish him, prevent him from properly preparing for his case, cause mental and physical stress, and to force him to ask the Court for delays that stop his speedy trial clock."

After careful review, the Court concludes it does not have jurisdiction to consider Bartunek's Motion to Dismiss at this time. On November 22, 2017, Bartunek filed two notices of interlocutory appeal (Filing Nos. 242, 245), challenging this Court's adverse rulings (Filing Nos. 223, 229) on his multiple requests to revoke detention and re-open

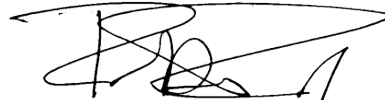
¹The Honorable Susan M. Bazis, United States Magistrate Judge for the District of Nebraska.

his detention hearing (Filing Nos. 212, 227, 228). Bartunek's pending interlocutory appeals divest this Court of jurisdiction over his motion to dismiss. *See United States v. Queen*, 433 F.3d 1076, 1077 (8th Cir. 2006) (per curiam). Accordingly, Bartunek's Motion to Dismiss with Prejudice (Filing No. 265) is denied. *See* Fed. R. Crim. P. 37(a)(2).

IT IS SO ORDERED.

Dated this 18th day of December, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be "R. Rossiter, Jr.", written over a horizontal line.

Robert F. Rossiter, Jr.
United States District Judge